

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 JIMMY INNOCENT,

4 PLAINTIFF,

5 -against- Case No.:  
6 07 CV 4795 (NRB)

7 THE CITY OF NEW YORK, THE NEW YORK CITY POLICE  
8 DEPARTMENT, and Unknown Police Officers "JOHN DOE  
9 A-Z" individually and in their capacities as Police  
Officers of the NYC Police Department,

DEFENDANTS.

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13 DATE: May 8, 2008

14 TIME: 12:41 p.m.

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17 EXAMINATION BEFORE TRIAL of the Plaintiff,  
18 JIMMY INNOCENT, taken by the Defendants, pursuant to  
19 Notice and to the Federal Rules of Civil Procedure, held at  
20 the offices of Special Federal Litigation, New York City  
21 Law Department, 100 Church Street, New York, New York  
22 10007, before Al-Furquan Baker, a Notary Public of the  
23 State of New York.

24

25

INNOCENT

1 Q. At the time, did he live with you in Westchester  
2 County?

3 A. Yes.

4 Q. Had you been to this property before, 138 Fifth  
5 Avenue?

6 A. Yes.

7 Q. How many times before?

8 A. A couple of times.

9 Q. A couple of times over a period of years or  
10 weeks?

11 A. Over a period of years.

12 Q. Was it your understanding that George Cato owned  
13 that property over a period of years?

14 A. Yes.

15 Q. To your knowledge, was anybody living in that  
16 property?

17 A. Not that I know of.

18 Q. Can you describe the property for me?

19 A. A loft.

20 Q. What's a loft?

21 A. A big opening. A big open room. It has a  
22 kitchen downstairs. You know, it's a kitchen. You go  
23 upstairs and there's a big, big opening.

24 Q. How do you get into this property; is there an  
25 entrance on the street?

INNOCENT

1 A. Yes, on 138.

2 Q. Is it an upper flight of stairs?

3 A. It's street level. It's two steps and you enter.

4 Q. It's locked? Was it locked when you went in  
5 there and somebody opened it with a key?

6 A. Yes.

7 Q. And you go in there and what do you see?

8 A. A kitchen. You see a business.

9 Q. What type of business is it?

10 A. Restaurant.

11 Q. Is it a health food restaurant?

12 A. Yes.

13 Q. Is that part of George Cato's property?

14 A. Yes.

15 Q. Does he operate a health food restaurant there?

16 A. Before, and to my understanding he's renovating  
17 the place to fix up the restaurant, to open up another  
18 restaurant.

19 Q. So at the time of the incident in June of 2006,  
20 what did this property look like from the street?

21 A. A nice place.

22 Q. A nice place?

23 A. Yes.

24 Q. Okay.

25 Does it look like a restaurant?

INNOCENT

1 A. Yes.

2 Q. Is there a --

3 A. Yes.

4 Q. Is there a sign outside?

5 A. Yes.

6 Q. Do you know what the name of the restaurant on  
7 the sign was?

8 A. Iron Lion.

9 Q. Iron Lion Health Food?

10 A. Yes, juice bar or health food.

11 Q. So it's called a juice bar, you think?

12 A. Yes.

13 Q. There's a sign?

14 A. Yes.

15 Q. And it has the building number on it, 138?

16 A. No, I can't remember the building number. I  
17 can't remember the address.

18 Q. If I just said it was 138?

19 A. It's on 138th Street. The building number, I  
20 can't remember. It's 30 something.

21 Q. So it's 138th Street between Fifth and Malcolm X?

22 A. Yes.

23 Q. Okay.

24 Do you know what the neighborhood is called; is  
25 it Fort Washington, Harlem?

INNOCENT

1 A. Harlem.

2 Q. East or west?

3 A. It's close to the FDR.

4 Q. So it's on the east side?

5 A. Yes.

6 Q. Is it a short block or long block?

7 A. Long.

8 MR. PRESTON: Just note my objection to  
9 form.

10 Q. Can you describe what the street looks like on  
11 the side that the Iron Lion is on, at least as of June of  
12 2006?

13 A. Well, churches. You have a church, senior  
14 citizen nursing home. It's like a senior citizen block.

15 Q. Are there apartment buildings on it?

16 A. Yes.

17 Q. Okay.

18 How many stories is the building with the Iron  
19 Lion?

20 A. About two or three stories.

21 Q. You're not sure?

22 A. No, I'm not sure.

23 Q. When you enter, you're in the kitchen?

24 A. Yes.

25 Q. How do you get to the second floor?

## INNOCENT

1           A.       You have to go through the kitchen, lift up the  
2       top (indicating). As you enter, this would be the door to  
3       enter from 138. As you enter, there's a counter right  
4       here. And you have to pick up the counter and go in the  
5       back and go up the stairs and the stairs go up  
6       (indicating). And then the loft is --

7           Q.       A big open room?

8           A.       A big open room.

9           Q.       Is it subdivided in any way?

10                   MR. PRESTON:    Just note my objection to  
11       form.

12          A.       It's a big opening but one kind of corner that's  
13       sealed off.

14          Q.       Is it a separate room; is that what you mean by  
15       sealed off?

16          A.       Yes, a small separate room.

17          Q.       So there's a big room and a small separate room  
18       within it?

19          A.       Yes.

20          Q.       Is there a bathroom?

21          A.       Yes.

22          Q.       Where is that?

23          A.       That's downstairs in the back, through the  
24       kitchen, all the way in the back (indicating).

25          Q.       There's no bathroom on the second floor?

INNOCENT

1                   When you arrived at George Cato's loft, what did  
2    you do?

3           A.       I went to sleep.

4           Q.       Where were you sleeping?

5           A.       On some bean bags.

6           Q.       In the big room?

7           A.       In the big room.

8           Q.       Were you in the center of the room?

9           A.       Let's just say the steps is behind this door  
10   (indicating), I was on that side of the wall on some bean  
11   bags sleeping. And the room where they was in the back  
12   with the police and the commotion was towards this side  
13   (indicating).

14          Q.       I'm trying to get you to answer the question in a  
15   way that it will be clear for the record later on, what  
16   you're describing.

17          A.       Okay.

18          Q.       So when you point and say over there --

19          A.       I can't really show --

20          Q.       Do you want to draw a picture; could you do that?

21          A.       No, I don't want to draw a picture.

22          Q.       Describe to me as best as you can where you were  
23   sleeping in relation to the rest of the room.

24          A.       Well, if you come up the stairs from this angle  
25   (indicating) --

INNOCENT

1 A. Not the long lengthwise.

2 Q. And you're staying on the side of the room near  
3 the windows facing 138th Street?

4 A. Yes, but a little bit towards the wall.

5 Q. So you're moving to the right, away from where  
6 you came up in the doorway?

7 A. Yes.

8 Q. When you came up from the stairs, you're on the  
9 very left-hand side of the room?

10 A. Yes.

11 Q. So you're moving going across the room crosswise  
12 and moving a few feet to the right; is that fair?

13 A. A few feet to the right, like on this side  
14 (indicating).

15 Q. How many feet to the right?

16 A. I can't say how many feet. It's a big place.

17 Q. Is it more than an arm's length from the  
18 left-hand wall?

19 A. More than an arm's length.

20 Q. But it's maybe --

21 A. It's a big loft. It's a big loft.

22 Q. I understand that. But since you can't give me  
23 dimensions, it's kind of hard to pinpoint where you are.

24 Is there furniture in the loft?

25 A. A whole bunch of stuff in the loft; music



INNOCENT

1 equipment.

2 Q. When you come up the stairs, is there a door that  
3 you would have to open to get into the loft?

4 A. No, there's a door from downstairs from the  
5 kitchen to go upstairs.

6 Q. So you have to go through the door to get to the  
7 stairs?

8 A. Yes.

9 Q. But once you come upstairs --

10 A. There's no door.

11 Q. You're in a big open room?

12 A. Yes.

13 Q. How many stairs do you have to go up?

14 A. It's a long flight of stairs.

15 Q. Okay.

16 More than twenty steps, would you say?

17 A. More than twenty.

18 Q. So when you arrived, you went right to the bean  
19 bags and went to sleep?

20 A. Yes.

21 Q. Did you have any conversation with anyone else?

22 A. I just went to sleep.

23 Q. Okay.

24 You were tired?

25 A. Yes. Yes, I was tired from partying all night.

INNOCENT

1 Q. And where did the other five men go?

2 A. Two of them was sleeping near the same side of  
3 the steps.

4 Q. Near the steps?

5 A. Yes.

6 Q. Also on bean bags?

7 A. On whatever they was sleeping on. But I know I  
8 was sleeping on a bean bag. And they were sleeping right  
9 there on this side (indicating).

10 Q. Which two men were those?

11 A. That's Ross Minilick, that's the musician, and  
12 the other guy.

13 Q. Ross is his first name?

14 A. His name is Francis something.

15 Q. So who is Ross Minilick?

16 A. The same person. That's his musician's name.

17 Q. So is Ross the first name and Minilick is the  
18 last name?

19 A. Yes.

20 Q. When you're in the bean bags, where are you in  
21 relation to the smaller room?

22 A. The smaller room, way over on this side  
23 (indicating).

24 Q. So you're saying the smaller room is at the other  
25 end of the loft going lengthwise?

INNOCENT

1 A. I don't know.

2 Q. What time did you go to sleep when you went back  
3 to George Cato's loft?

4 A. After reaching there.

5 Q. You went right to sleep?

6 A. Yes.

7 Q. And that would have been about what time?

8 A. Around 5:00, 6:00.

9 Q. In the morning?

10 A. In the morning.

11 Q. It was dark out at the time you arrived at the  
12 loft?

13 A. Yes, kind of getting bright.

14 Q. The sun was starting to come up?

15 A. The sky was starting to look a little bit blue.

16 Q. Okay.

17 Was it fully light out?

18 A. No.

19 Q. What time did you wake up?

20 A. When the police awake me.

21 Q. What time did you wake up?

22 A. 7:30 or 8:00.

23 Q. Did you sleep continuously since you went to  
24 sleep at five or six in the morning?

25 A. Yes.

INNOCENT

1 Q. When you went to sleep, did you see any  
2 ammunition in the room?

3 A. No.

4 Q. Did you see any weapons?

5 A. No.

6 Q. Did you see any marijuana?

7 A. No.

8 Q. Did you see any other kinds of drugs?

9 A. No.

10 Q. Did you see any water pipes or bonges?

11 A. No.

12 Q. Did you look around before you went to sleep?

13 A. I just went upstairs and went to that side of the  
14 room and crashed out.

15 Q. Went right to sleep?

16 A. Yes.

17 Q. Okay.

18 Did you look around at all?

19 A. No.

20 Q. Do you have any recollection of any of the  
21 contents of the loft?

22 A. No.

23 Q. Was there any furniture?

24 A. Music equipment.

25 Q. What type of equipment?

INNOCENT

1 Q. So this is a large room, right, the loft?

2 A. Yes, it's a large room.

3 Q. Is it crowded with equipment or furniture or  
4 anything or is it mostly empty?

5 A. It's mostly empty, but a bunch of stuff is in  
6 there. You can see a bunch of guitars, drums, you know,  
7 drums, just equipment, CDs.

8 Q. Okay.

9 Did you see any knives in the room?

10 A. No.

11 Q. Okay.

12 At any time during the party or during the period  
13 of time you were with the five other men, did you see them  
14 in possession of any ammunition?

15 A. No.

16 MR. PRESTON: Just note my objection to  
17 form.

18 Q. Did you see them with any weapons?

19 MR. PRESTON: Objection to form.

20 MS. SCHARFSTEIN: What's the objection to  
21 form?

22 MR. PRESTON: My objection to form to start  
23 with was, you said that at any time you were at  
24 the party or at any time you were with the five  
25 men. I think it's a compound question. That was

INNOCENT

1 A. No marijuana.

2 Q. And no knives of any type?

3 A. No.

4 MR. PRESTON: Just note my objection.  
5 Asked and answered.

6 Q. Did you look around the loft?

7 A. I just went to sleep. I was tired from the  
8 party, dancing around. I just went to sleep.

9 Q. Did you notice what was in the room?

10 A. Guitars, drums, CDs. I went to sleep.

11 Q. Would it be fair to say the guitars, drums and  
12 CDs are a complete inventory of what was in the loft when  
13 you arrived?

14 MR. PRESTON: Just note my objection. I  
15 don't think that was his testimony.

16 A. I don't know.

17 Q. Is it possible that there were items in the room  
18 that you didn't see?

19 A. Of course, because I just went to sleep.

20 Q. Okay.

21 At any time before you went to sleep, did you  
22 look into the room within a room?

23 A. No.

24 Q. At some point, you woke up?

25 A. Yes.

INNOCENT

1 A. No.

2 Q. Okay.

3 Did he handcuff you or did someone else?

4 A. He handcuffed me.

5 Q. Do you know if he was the arresting officer?

6 A. Yes.

7 Q. And how do you know that?

8 A. Because he was talking to me all the way. He  
9 took \$601 out of my pocket.

10 Q. Did you ever receive that money back?

11 A. Yes.

12 Q. Okay.

13 When was that?

14 A. After they let me out.

15 Q. The entire \$601 was taken from you and vouchered?

16 A. Yes, he took it and pocketed it first. And then  
17 when other officers came there, I started making noise  
18 telling them he took my money, such and such, give me back  
19 my money, give me back my money and whatsoever.

20 And then other officers came to me and was  
21 saying, remember, I'm not the arresting officer, just  
22 remember that, he is (indicating). And he started talking  
23 to me around them saying, these guys be fucking up, you  
24 know, they're major fuck-ups. And stuff like that.

25 Q. Okay.

INNOCENT

1 Did you ever learn the arresting officer's name?

2 A. No.

3 Q. Did you get a voucher for the \$601?

4 A. No, until after.

5 Q. What do you mean until after?

6 A. Till after the case was done, I went to 100  
7 Centre Street.

8 Q. You went to lower Manhattan?

9 A. Yes.

10 Q. What happened there?

11 A. I think it was the ninth floor, I got a  
12 disposition. And they told me where I was supposed to go  
13 get my things.

14 Q. So before you went to Central Booking, you were  
15 never given a receipt for your money?

16 A. No.

17 Q. And when you went down to lower Manhattan to get  
18 it back, did you present them with any sort of  
19 documentation?

20 A. I had a documentation from the precinct, but it  
21 wasn't a voucher. It was a voucher for my stuff, but it  
22 didn't say anything about the money. But then after a  
23 while -- whatever they did in the system, they knew that I  
24 had the money in there. So they gave it back to me.

25 Q. In cash or a check?



INNOCENT

1 Q. You hadn't been strip searched in connection with  
2 any of your prior arrests?

3 A. No.

4 Q. So the next time you were strip searched was  
5 during what time?

6 A. Inside the prison.

7 Q. How long was that after June 25, 2006?

8 A. Any time between the arrest and 90 days.

9 Q. At some point did you go to Riker's Island?

10 A. No.

11 Q. Where were you incarcerated for the 90 days?

12 A. The tombs.

13 Q. So that's in lower Manhattan?

14 A. Lower Manhattan.

15 Q. And you stayed there the entire 90 days?

16 A. Yes.

17 Q. How many times during that 90-day period were you  
18 strip searched?

19 A. Two or three times.

20 Q. In addition to the search at the 32nd Precinct?

21 A. Yes.

22 Q. Okay.

23 Going back to the 32nd Precinct, on June 25,  
24 2006, how long were you in the holding cell?

25 MR. PRESTON: Just note my objection.

INNOCENT

1 A. I was --

2 Q. Was it less than a day or more?

3 A. Less than a day. I had no phone, because when I  
4 was asking --

5 MR. PRESTON: That's not the question.

6 Q. I take it you weren't allowed to make any phone  
7 calls when you were at the precinct; is that true?

8 A. I tried to make phone calls. I tried to ask to  
9 get a phone call to let my family and my girlfriend know  
10 what's going on with me. They wouldn't let none of us --  
11 they wouldn't let me make a phone call.

12 Q. You asked who to make a phone call?

13 A. The officer, the arresting officer.

14 Q. He said no?

15 A. He said no.

16 Q. Did you ask to speak with the supervisor?

17 A. Yes.

18 Q. What happened as a result?

19 A. He said, cool your fucking ass off and sit in the  
20 cell.

21 Q. So a supervisor never came to speak to you?

22 A. I think it was a supervisor who told me that.

23 Q. Do you know his name?

24 A. No.

25 Q. Can you describe him?

INNOCENT

1 Q. Did any of the other five men who were arrested  
2 with you complain that they had been kicked in the legs and  
3 had pain as a result?

4 A. Yes.

5 Q. Which ones?

6 A. Mr. Francis.

7 Q. Any of the others?

8 A. Yes, others.

9 Q. Which one?

10 A. George Cato and the other guy.

11 Q. Can you tell me which guy?

12 A. I met him there.

13 Q. You gave me some names and descriptions before.

14 A. He was one of the ones that I didn't have the  
15 name for.

16 Q. Okay.

17 How long were you at the tombs before you saw a  
18 judge?

19 A. I don't remember, but I did see a judge.

20 Q. Was it several days after you arrived?

21 A. Yes, maybe a day or two.

22 Q. And do you remember the name of the judge?

23 A. No.

24 Q. Male or female judge; do you know?

25 A. Male.

INNOCENT

1 Q. Were the charges dismissed?

2 A. Yes.

3 Q. Was it an unconditional dismissal; were there any  
4 conditions attached to your release?

5 A. No.

6 Q. Do you know the reason that the charges were  
7 dismissed?

8 A. No.

9 Q. Do you know if the other five men that you were  
10 arrested with went to court on this matter?

11 A. Yes.

12 Q. Do you know if they were all charged with crimes?

13 A. No.

14 Q. Okay.

15 Do you know if any of them were held in custody?

16 A. After that when I came out?

17 Q. Let me break it down.

18 Were any in custody on this matter after you came  
19 out?

20 A. Yes.

21 Q. Which ones?

22 A. The artist.

23 Q. The musician, you mean?

24 A. The musician and Mr. Brown. And there was a man  
25 who came there -- there was a man who came to the loft